

This is in response to your letter of October 1, 2008, regarding contributions that Sprint Nextel Corporation Political Action Committee (Sprint PAC) made to seven candidate committees. In accordance with FEC regulations that [m]ulticandidate political committees making contributions to candidates are encouraged to designate their contributions in writing for a particular election, 11 C.F.R. 110.2(b)(2)(i), on the face of each of the seven checks Sprint PAC designated that they represented contributions for the Primary 2008 election. However, the contributions were not made until after the primary elections for each of these candidates had passed. With the exception of one candidate, who does not appear to have reported a contribution from Sprint, each of the candidates committees accepted the checks and reported them as having been received for the general election; they neither notified Sprint PAC that the primary elections were over nor did they seek a written re-designation, as 11 C.F.R. 110.2(b)(3) suggests is necessary. Sprint PAC therefore proposes to send a formal notice to the candidates that the contribution should be treated as having been made for the general election and file amended reports. Sprint PAC proposes this course of action for three reasons: * First, Sprint PAC was eligible to make the contributions in the general election (i.e., these contributions would not exceed the \$5,000 limit for the general election from Sprint PAC). Therefore, there have been no excessive contributions nor any attempt to circumvent the contribution limits.* Second, Sprint PAC has been unable to locate any regulation requiring redesignation within any specific time period. The regulations do make reference to a 60-day window, but only when the recipient has first notified the contributor that the contribution cannot be accepted. See 11 C.F.R. 110.2(b)(3)(i) and 110.2(b)(5)(ii). In both places, the redesignation procedures must be initiated by the treasurer of the recipient committee. Sprint PAC has been unable to locate any regulation stating that if a multicandidate PAC makes a designated contribution the committee has 60 days to notify the recipient sua sponte of the need to redesignate the contribution. Indeed this would make little sense, because if Sprint PAC knew the contribution was made after the election for which it was designated, it would not have made the contribution in the first place. Sprint PAC notes that the statement in the October 1 letter [i]f the forgoing conditions for redesignation were not met within 60 days of the treasurer s receipt, your committee must obtain a refund is made without any citation to the statute or regulations. * Finally, even if Sprint were to seek refunds of the contributions, it would be eligible to give a new contribution to the candidate for the general election, meaning that at most this would be a cumbersome book-keeping procedure to refund and send new checks. Indeed, the reporting on the part of the candidates would reflect a refund of a general election contribution and then a new contribution, in the same amount, for the general election. Accordingly, Sprint PAC has sent a letter to each of the candidates in question stating that the contributions they received and had already reported as general election contributions have been formally designated as being intended for the general election. Copies of those letters are attached to this response. In addition, Sprint PAC has filed an amended July monthly report showing the contributions in question as having been made for the general election, per the re-designation. Finally, Sprint PAC has taken steps to ensure that it will not designate any future contribution as being for a primary election unless the primary has not yet occurred. Specifically, Sprint PAC will implement procedures for the next election cycle that will require it to review the primary calendar and confirm that the primary has not occurred before making any contribution designated for a primary election. If it has not verified the date of the primary, it will designate the contribution for the general election.
